

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLES ELLIS TALLEY,

Plaintiff,

v.

UNITED STATES VETERANS AFFAIRS,

Defendant.

CASE NO. C24-0355-KKE

ORDER ON PENDING MOTIONS

This matter comes before the Court on Plaintiff's motion for default and for default judgment (Dkt. Nos. 12, 13) and Defendant's motion to dismiss and strike (Dkt. No. 15). Based on the parties' submissions, they appear to agree on the appropriate disposition for each motion.

First, Defendant moves to strike Plaintiff's pending motions for default and default judgment because Defendant was not properly served. Dkt. No. 15. Plaintiff did not oppose this request (Dkt. No. 17) and his proposed order filed in response to the motion to dismiss asked the Court to strike the pending motions (Dkt. No. 17-1).¹ Accordingly, the Court STRIKES Plaintiff's pending default motions. Dkt. Nos. 12, 13.

Second, Defendant moved to dismiss the complaint due to Plaintiff's failure to properly serve the United States Attorney's Office for the Western District of Washington. Dkt. No. 15.

¹ In a nearly identical case against the United States Department of Veteran's Affairs, Plaintiff withdrew his motions for default. *Talley v. United States Dep't of Veteran's Affs.*, No. 2:24-cv-01157-KKE, Dkt. No. 15 (W.D. Wash. filed July 31, 2024).

1 Plaintiff responded and admitted to this failure but requested the opportunity to the correct the
2 mistake. Dkt. No. 17. Plaintiff then filed proof of service on the proper United States Attorney's
3 Office. Dkt. No. 19. In reply, Defendant agreed that Plaintiff corrected the deficient service but
4 reiterated the need to strike the pending default motions. Dkt. No. 20. As these motions have now
5 been stricken, the Court DENIES as MOOT Defendant's motion to dismiss. Dkt. No. 15.

6 Accordingly, Plaintiff's motions for default (Dkt. Nos. 12, 13) are STRICKEN by
7 agreement and Defendant's motion to dismiss (Dkt. No. 15) is DENIED as MOOT.

8 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
9 to any party appearing pro se at said party's last known address.

10 Dated this 7th day of January, 2025.

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13 Kymberly K. Evanson
14 United States District Judge
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